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LAWS REGULATING MARRIAGE

great object of all criminal jurisprudence—the lessening and ultimate and final abolition of crime.

J. L.

COURTS—LAWS.

State Laws Regulating Marriage of the Unfit.—(From the Annual Report of the National League for the Protection of the Family.—Rev. Samuel M. Dike, Sec.)

NO REGULATION BY STATUTE.

Thirteen states and territories make no regulation by statute. These are Alabama, Arizona, Colorado, Florida, Indian Territory, Louisiana, Maryland, Missouri, New Mexico, Pennsylvania, South Dakota, Tennessee, and Texas. But some of these states secure the aims of these restrictive measures through provisions in their divorce laws.

DISQUALIFICATIONS IN OTHER STATES.

Arkansas declares void all marriages when at the time either party is incapable of consenting to the marriage from want of understanding.

California provides for their annulment when either party is of unsound mind.

Connecticut makes the marriage of epileptic, imbecile, or feeble-minded, a criminal act.

Delaware makes marriage with a person who is insane at the time void.

The *District of Columbia* makes voidable the marriage of an idiot or person judged insane.

Georgia declares the marriage of an insane person void.

Idaho provides for the annulment of a marriage when either party is of an unsound mind.

Illinois makes void the marriage of an insane person or an idiot.

Indiana provides that no license to marry shall be issued where either party is an imbecile, epileptic, of unsound mind, nor to any person who is or has been within five years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed and that such male applicant is able to support a family and likely to so continue, nor shall any license issue when either of the contracting parties is affected with a transmissible disease, or at the time of making application is under the influence of an intoxicating liquor or narcotic drug. (Act of April 15, 1905.)

Iowa makes the marriage of the insane or idiot subject to annulment.

Kansas prohibits the marriage of an epileptic, imbecile, feeble-minded, or insane person except when the woman is over forty-five years of age.

Kentucky prohibits the marriage of an idiot or a lunatic.

Maine declares void the marriage of an insane or idiotic person.

Massachusetts prohibits the marriage of insane persons or idiots.

Michigan prohibits the marriage of insane persons and idiots. It also provides that no person who has been confined in any public institution or asylum as an epileptic, feeble-minded, imbecile, or insane patient shall be capable of contracting marriage unless before the issuance by the county clerk of the license to marry there be filed in the office of said county clerk a verified certificate from two regular physicians of the state that such person has been completely cured of such insanity, epilepsy, imbecility

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or feeble-mindedness and there is no probability that such person will transmit any of such defect or disability to the issue of such marriage. By an Act of 1899 persons afflicted with certain venereal diseases and not cured are forbidden to marry.

Minnesota prohibits the marriage of a woman under the age of forty-five or a man of any age (unless he marries a woman over forty-five) if either party is an epileptic, imbecile, feeble-minded, or afflicted with insanity.

Montana provides for the annulment of marriages of persons of unsound mind.

Nebraska makes void marriages of those insane or idiotic at the time of marriage.

Nevada makes voidable marriages where either party is incapable for want of understanding of assenting to the marriage unless there is voluntary cohabitation after such incapacity is removed.

New Jersey prohibits any person who has been confined in any public asylum or institution as an epileptic, insane, or feeble-minded patient from intermarrying within the state without a certificate from two regular physicians.

New York makes voidable marriages where either party is incapable of consenting from want of understanding.

North Carolina makes all marriages voidable where either party is incapable of contracting for want of will or understanding.

North Dakota provides that marriages may be annulled when either party is of unsound mind, unless such party freely cohabits with the other party as husband and wife.

Ohio provides that no marriage license shall be granted where either of the parties, applicants therefor, is an habitual drunkard, epileptic, imbecile, or insane, or who at the time of making application for said license is under the influence of any intoxicating liquor or drug.

Oklahoma declares void the marriage of an insane person or idiot.

Oregon makes voidable marriages where either party is incapable of contracting or consenting for want of sufficient understanding.

Rhode Island declares marriages void when either party is an idiot or lunatic.

South Carolina prohibits the marriage of idiots and lunatics.

Utah prohibits the marriage of the insane and lunatic and those persons who have syphilis or gonorrhea and are uncured, and those having chronic epileptic fits.

Vermont makes marriages voidable when either party is an idiot or lunatic, unless after the restoration of such persons to reason the parties voluntarily cohabited.

Virginia makes voidable the marriage of the insane.

Washington, by Act of 1909, prohibits the marriage of a common drunkard, an habitual criminal, the epileptic, imbecile, feeble-minded, an idiot or insane person, or one afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease.

West Virginia makes marriages of the insane voidable.

Wisconsin both prohibits and makes void the marriage of the insane and idiotic, and also makes them criminal.

Wyoming prohibits the marriage of the insane and idiotic.

LAW RELATING TO JUVENILE OFFENDERS

SUMMARY BY CAUSES.

Insanity, Lunacy, and Want of Understanding or Will to Consent.—Thirty-four states or jurisdictions make restrictions under some one of these terms: Arkansas, New York, North Carolina and Oregon—Oregon using the last of the three terms given above. The other states are: California, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

The Imbecile and Feeble-minded.—Eight states specify the imbecile or feeble-minded as follows: Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, Ohio and Washington.

Idiotic.—Fifteen states and the District of Columbia specify the idiotic as follows: District of Columbia, Illinois, Iowa, Maine, Massachusetts, Michigan, Mississippi (providing divorce in such cases), Nebraska, Oklahoma, Rhode Island, South Carolina, Utah, Vermont, Washington, Wisconsin and Wyoming.

Incapable of Consent.—Four states put a restriction in this form: Arkansas, New York, North Carolina and Oregon.

Epilepsy.—Nine states specify epilepsy. They are Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, Ohio, Utah and Washington.

Drunkenness is named in the statutes of only two states as a bar to marriage. Ohio specifies habitual drunkenness and Washington the common drunkard.

Venereal and other contagious diseases are a bar to marriage in four states. Indiana names only a transmissible disease, and Michigan, by an act of 1899, and Utah and Washington, by acts of 1909, specify venereal diseases as a bar to marriage.

The Indigent.—One state, Indiana, regulates with considerable care the marriage of the indigent.

As the suggestion is frequently made that the marriage of those afflicted with venereal disease should be legally regulated, inquiry has been made into the working of the law on the subject in Michigan, the only state that has had the law long enough to test it fairly. The testimony of leading men interested in checking these diseases is that the law has no practical value. It is easy to see why such a law must be, to a great extent, a failure, and that our hope must rest on the influence on education, in various ways, and on the direct action of the parties to be married, their parents, pastors and physicians. The evils are of a grave character, both on account of their wide prevalence and their most serious effects on the parties immediately concerned and their descendants. But their legal prevention is difficult.—From *The Training School*, Vol. VIII, No. 10.

(Since the above was published, Wisconsin has made the medical certificate a prerequisite to marriage.)

R. H. G.

Law Relating to Juvenile Offenders in Vermont.—The following progressive legislation was enacted in Vermont by the last legislature: